

# Watershed General VPDES Permit Issues for Discussion

## EPA Comments on SB1275 by letter of March 14, 2005

1. Compliance Schedules must require compliance “as soon as possible” and determinations must be made on a facility-by-facility basis.
  
2. Purchase of compliance credits from the Water Quality Improvement Fund
  - Conditions for point-to-point trades in § 18.A.1 should also apply to trades executed through the WQIF
  - Compliance credits purchase from WQIF must be backed by projects on the ground and generating nutrient reductions in the same year.

## EPA Comments on SB1275 by letter of March 14, 2005

3. General permit and individual permits must comply with EPA technology-based effluent limits and cannot “be in lieu” of them.
4. Waste load allocations are permit limits
5. Waiver of technology-based standards defined in §15 does not apply to the offset provisions described in §15 .

## EPA Comments on SB1275 by letter of March 14, 2005

6. Clarify that general permit supersedes Total N and Total P limits only. All other individual permit limits apply as well as any more restrictive Total N and Total P limits in the individual permits.
  
  
  
  
  
  
  
  
  
  
7. Public must have opportunity to review and comment on GP issuance and modification, including approval of individual compliance schedules. GP is subject to EPA approval under 40 CFR 123.62.

## Summary of Comments Received in Response to NOIRA

1. High and substantially disparate growth rates across NOVA will be a challenge to address as will issues related to Blue Plains WWTP and the Occoquan Reservoir.
2. SB1275 “may have established a false sense of feasibility as to the viability and availability of nonpoint source credits to offset point source permit allocations.”
3. Nutrient credits for activities that would already have taken place under the Tributary Strategy would forestall progress on the Bay clean-up. Trading program must be transparent and accountable to succeed.

## Summary of Comments Received in Response to NOIRA

4. Nutrient loading allocations must be included in both the general permit and the individual permits.
5. Point Source (PS)-to-Nonpoint Source (NPS) trading to “meet” the nutrient cap versus PS-to-NPS trading to “maintain” the cap
  - PS-to-NPS trading to “meet” the cap would critically flaw the integrity and success of the program.
6. NPS best management practices must be fully implemented, maintained and proven to provide quantifiable nutrient reductions.

## Summary of Comments Received in Response to NOIRA

7. GP/Trading Regulation must be consistent with proposed “Technology” Regulation and “WQMP” Regulation.
8. DEQ must provide for opportunity for public comment before making final allocation in the York and James River basins.
9. BMPs used to create offset credits for additional point source allocations must be as permanent as the point source discharge. This may be accomplished through a permanent easement or condition on the title of the land in question.

## Summary of Comments Received in Response to NOIRA (cont.)

10. Transfer of nutrient loads from the Chesapeake Bay watershed to the Atlantic Ocean does not deal with the ecological damage these regulations seek to remedy.
11. Definition of “good faith effort” and WQIF fee structure must encourage reduction methods preferred in the bill and not just fall back on purchasing WQIF credits.
12. DEQ should provide for public review and comment on any proposal to offset increased discharges, whether via point or nonpoint source reductions, contributions to WQIF or “other means”.



## Summary of Comments Received in Response to NOIRA (cont.)

13. Counting of nutrient reductions from BMPs required by Tributary Strategies vs. those used as point source offsets. Trading program must result in net reductions.
14. Mandatory monitoring provision for NPS offsets to ensure accountability.
15. Clarification on whether new facilities would be able to trade wasteload allocation credits.

## Summary of Comments Received in Response to NOIRA (cont.)

16. Nutrient hot spots must be avoided.

17. CB Program Trading Fundamental Principle #7 – *“Traders must be in substantial compliance with all local, state , and Federal environmental laws, regulations and programs”*. Trading is a privilege.

18. CB Program Trading Fundamental Principle #8 – *“The involvement of a diverse group of stakeholders must be sought in the design and implementation of state trading programs and related public education initiatives.”* vs. exclusive nature of the trading association.

## Summary of Comments Received in Response to NOIRA (cont.)

19. Additional opportunities for public participation necessary throughout the process of developing the regulation.
20. Equal representation on TAC from dischargers and the public.

## Additional Issues

1. Are credits generated by un-built facilities allowed to be traded by the permittee or should they be held by WQIF until construction commences?
2. How long must offset credits be assured prior to permitting a new discharge?
3. PS-to-NPS trading ratios?

## Additional Issues

4. Minimum technology and offset requirements for facilities permitted prior to 7/1/05 but not yet constructed.
5. Using additional allocations as an incentive to take “non-significant” dischargers and septic tank systems offline.
6. Availability of offset credits between now issuance of the GP regulation.

## Additional Issues

7. Trading opportunities in the Eastern Shore basin.
8. Why the funding restrictions on the generation of NPS credits but not PS credits?
9. Allocation of limited WQIF credits.

## Additional Issues

10. Alternative definition of “credits”

11. How can trading banks be used to encourage Nonpoint source reductions?

12. Just what is a compliance plan?